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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Respondent,

No. CR S-04-0249 GEB KJM P

12 vs.

13 JAIME LEYVA-HERNANDEZ,

14 Movant.

FINDINGS AND RECOMMENDATIONS

15 _____/
16 Movant is proceeding pro se with an application for writ of habeas corpus under
17 28 U.S.C. § 2255. Movant had been released from prison. Therefore, on February 25, 2009, the
18 court ordered movant to show cause within ten days why this action should not be dismissed as
19 moot. Movant was informed that failure to respond to the order to show cause would result in a
20 recommendation that this action be dismissed. Movant has not responded to the order to show
21 cause.

22 Accordingly, IT IS HEREBY RECOMMENDED that:

23 1. Movant's application for writ of habeas corpus under 28 U.S.C. § 2255 (#18)
24 be dismissed; and

25 2. The clerk of the court be directed to close the companion civil case No. CIV-
26 S-05-0351 GEB KJM P.

1 These findings and recommendations are submitted to the United States District
2 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty
3 days after being served with these findings and recommendations, any party may file written
4 objections with the court and serve a copy on all parties. Such a document should be captioned
5 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
6 shall be served and filed within ten days after service of the objections. The parties are advised
7 that failure to file objections within the specified time waives the right to appeal the District
8 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

9 DATED: March 12, 2009.

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11 U.S. MAGISTRATE JUDGE

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